

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 217

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES COX (Sponsor), REMOLE,
KOENIG AND BERRY (Co-sponsors).

0872H.01P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 33.300, 34.378, and 37.850, RSMo, and to enact in lieu thereof four new sections relating to the transparency and accountability of public funds, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 33.300, 34.378, and 37.850, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 33.087, 33.300, 34.378, and 37.850, to read as follows:

33.087. 1. Every department and division of the state that receives any grant of federal funds of one million dollars or more shall document and make the following information easily available to the public on the Missouri accountability portal established in section 37.850:

(1) Any amount of funds it receives from the federal government;

(2) The name of the federal agency disbursing the funds;

(3) The purpose for which the funds are being received;

(4) The name of any state agency to which any portion of the funds are transferred by the initial receiving department or division, the amount transferred, and the purpose for which those funds are transferred; and

(5) The information provided to the department or division under subsection 2 of this section.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 **2. If a department or division receives a grant of federal funds and transfers a**
14 **portion of such funds to another department or division, the department or division**
15 **receiving the transferred funds shall report to the department or division from which the**
16 **funds were transferred, an accounting of how the transferred funds were used and any**
17 **statistical impact that can be discerned as a result of such usage.**

18 **3. All information referred to in subsection 1 of this section shall be updated within**
19 **thirty days of any receipt or transferal of funds.**

20 **4. The office of administration shall promulgate rules to implement the provisions**
21 **of this section. Any rule or portion of a rule, as that term is defined in section 536.010 that**
22 **is created under the authority delegated in this section shall become effective only if it**
23 **complies with and is subject to all of the provisions of chapter 536, and, if applicable,**
24 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
25 **vested with the general assembly under chapter 536, to review, to delay the effective date,**
26 **or to disapprove and annul a rule are subsequently held unconstitutional, then the grant**
27 **of rulemaking authority and any rule proposed or adopted after the effective date of this**
28 **act, shall be invalid and void.**

 33.300. The governor, lieutenant governor, attorney general, [state auditor,] state
2 treasurer, and commissioner of administration constitute the board of fund commissioners, of
3 which the governor is president and the state treasurer, secretary. The board shall direct the
4 payment of interest on the state debt, the redemption, issue and cancellation of bonds of the state,
5 and perform all acts required of it by law.

 34.378. 1. The state shall not enter into a contingency fee contract with a private
2 attorney unless the attorney general makes a written determination prior to entering into such a
3 contract that contingency fee representation is both cost effective and in the public interest. Any
4 written determination shall include specific findings for each of the following factors:

5 (1) Whether there exists sufficient and appropriate legal and financial resources within
6 the attorney general's office to handle the matter;

7 (2) The time and labor required; the novelty, complexity, and difficulty of the questions
8 involved; and the skill requisite to perform the attorney services properly;

9 (3) The geographic area where the attorney services are to be provided; and

10 (4) The amount of experience desired for the particular kind of attorney services to be
11 provided and the nature of the private attorney's experience with similar issues or cases.

12 2. If the attorney general makes the determination described in subsection 1 of this
13 section, the attorney general shall request written proposals from private attorneys to represent
14 the state, unless the attorney general determines that requesting proposals is not feasible under
15 the circumstances and sets forth the basis for this determination in writing. If a request for

16 proposals is issued, the attorney general shall choose the lowest and best bid or request the office
17 of administration establish an independent panel to evaluate the proposals and choose the lowest
18 and best bid.

19 **3. The state shall not enter into a contingency fee contract that provides for the**
20 **private attorney to receive an aggregate contingency fee in excess of:**

21 **(1) Twenty-five percent of any recovery up to ten million dollars; plus**

22 **(2) Twenty percent of any portion of such recovery between ten million one dollars**
23 **and fifteen million dollars; plus**

24 **(3) Fifteen percent of any portion of such recovery between fifteen million one**
25 **dollars and twenty million dollars; plus**

26 **(4) Ten percent of any portion of such recovery between twenty million one dollars**
27 **and twenty-five million dollars; plus**

28 **(5) Five percent of any portion of such recovery in excess of twenty-five million**
29 **dollars.**

30 **4.** The state shall not enter into a contract for contingency fee attorney services unless
31 the following requirements are met throughout the contract period and any extensions to the
32 contract:

33 (1) The government attorneys shall retain complete control over the course and conduct
34 of the case;

35 (2) A government attorney with supervisory authority shall oversee the litigation;

36 (3) The government attorneys shall retain veto power over any decisions made by outside
37 counsel;

38 (4) A government attorney with supervisory authority for the case shall attend all
39 settlement conferences; and

40 (5) Decisions regarding settlement of the case shall be reserved exclusively to the
41 discretion of the attorney general.

42 **[4.] 5.** The attorney general shall develop a standard addendum to every contract for
43 contingent fee attorney services that shall be used in all cases, describing in detail what is
44 expected of both the contracted private attorney and the state, including, without limitation, the
45 requirements listed in subsection 3 of this section.

46 **[5.] 6.** Copies of any executed contingency fee contract and the attorney general's written
47 determination to enter into a contingency fee contract with the private attorney shall be posted
48 on the attorney general's website for public inspection within five business days after the date
49 the contract is executed and shall remain posted on the website for the duration of the
50 contingency fee contract, including any extensions or amendments to the contract. Any payment
51 of contingency fees shall be posted on the attorney general's website within fifteen days after the

52 payment of such contingency fees to the private attorney and shall remain posted on the website
53 for at least three hundred sixty-five days.

54 [6.] 7. Any private attorney under contract to provide services to the state on a
55 contingency fee basis shall, from the inception of the contract until at least four years after the
56 contract expires or is terminated, maintain detailed current records, including documentation of
57 all expenses, disbursements, charges, credits, underlying receipts and invoices, and other
58 financial transactions that concern the provision of such attorney services. The private attorney
59 shall maintain detailed contemporaneous time records for the attorneys and paralegals working
60 on the matter in increments of no greater than one-tenth of an hour and shall promptly provide
61 these records to the attorney general, upon request. Any request under chapter 610 for inspection
62 and copying of such records shall be served upon and responded to by the attorney general's
63 office.

64 [7.] 8. By February first of each year, the attorney general shall submit a report to the
65 president pro tem of the senate and the speaker of the house of representatives describing the use
66 of contingency fee contracts with private attorneys in the preceding calendar year. At a
67 minimum, the report shall:

68 (1) Identify all new contingency fee contracts entered into during the year and all
69 previously executed contingency fee contracts that remain current during any part of the year,
70 and for each contract describe:

71 (a) The name of the private attorney with whom the department has contracted, including
72 the name of the attorney's law firm;

73 (b) The nature and status of the legal matter;

74 (c) The name of the parties to the legal matter;

75 (d) The amount of any recovery; and

76 (e) The amount of any contingency fee paid;

77 (2) Include copies of any written determinations made under subsections 1 and 2 of this
78 section.

37.850. 1. The commissioner of administration shall maintain the Missouri
2 accountability portal established in executive order 07-24 as a free, Internet-based tool allowing
3 citizens to demand fiscal discipline and responsibility.

4 2. The Missouri accountability portal shall consist of an easy-to-search database of
5 financial transactions related to the purchase of goods and services and the distribution of funds
6 for state programs; **all bonds issued by any public institution of higher education or political**
7 **subdivision of this state or its designated authority, all obligations issued or incurred**
8 **pursuant to section 99.820 by any political subdivision of this state or its designated**

9 **authority, and the revenue stream pledged to repay such bonds or obligations; and all debt**
10 **incurred by any public charter school.**

11 3. The Missouri accountability portal shall be updated each state business day and
12 maintained as the primary source of information about the activity of Missouri's government.

13 **4. Upon the conducting of a withholding or a release of funds, the governor shall**
14 **submit a report stating all amounts withheld from the state's operating budget for the**
15 **current fiscal year, as authorized by article IV, section 27 of the Missouri Constitution,**
16 **which shall be:**

17 (1) **Conspicuously posted on the accountability portal website;**

18 (2) **Searchable by the amounts withheld or released from each individual fund; and**

19 (3) **Searchable by the total amount withheld or released from the operating budget.**

20 **5. Every political subdivision of the state, including public institutions of higher**
21 **education but excluding school districts, shall supply all information described in**
22 **subsection 2 of this section to the office of administration within seven days of issuing or**
23 **incurring such corresponding bond or obligation. For all such bonds or obligations issued**
24 **or incurred prior to the effective date of this act, every such political subdivision and**
25 **public institution of higher education shall have ninety days to supply such information to**
26 **the office of administration.**

27 **6. Every school district and public charter school shall supply all information**
28 **described in subsection 2 of this section to the department of elementary and secondary**
29 **education within seven days of issuing such bond, or incurring such debt. The department**
30 **of elementary and secondary education shall have forty-eight hours to deliver such**
31 **information to the office of administration. For all such bonds issued or debt incurred**
32 **prior to the effective date of this act, every school district and public charter school shall**
33 **have ninety days to supply such information to the department of elementary and**
34 **secondary education. The department of elementary and secondary education shall have**
35 **forty-eight hours to deliver such information to the office of administration.**

Section B. Because it is necessary to document and track the transference of public
2 funds, section A of this act is deemed necessary for the immediate preservation of the public
3 health, welfare, peace and safety, and is hereby declared to be an emergency act within the
4 meaning of the constitution, and section A of this act shall be in full force and effect upon its
5 passage and approval.

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